But if, after delivering to the donee a written assignment of the fund making the donor and donee joint owners, the donor retains the pass book, there is no valid gift. *Whalen* v. *Milholland,* 89 Md. 199. The real basis for this decision is not that advanced in one part of the opinion—being a joint owner, the donor could defeat the gift himself by withdrawing the entire fund—for the donee, as joint owner, would have the same power. The true reason is that given later in the opinion—that, since the donor retained the pass book which was necessary for the withdrawal of the money, he did not surrender dominion over the fund. The principal case relies upon this decision, but there is an important difference between the facts in the two cases. In the principal case, the bank in which the money was deposited held the pass book. Could it be said then that possession of the bank book was necessary to dominion over the fund? Where the debtor bank holds the book and the book therefore has nothing to do with dominion over the account, the case is analogous to one where a book has never been issued or where it is lost. In such a case, a valid gift may be made by delivery of a written assignment. *Candee* v. *Conn. Sav. Bank,* 71 Atl. 551. The fact that the donor was still a joint owner and could defeat the gift by withdrawing by check the whole amount should not invalidate the gift, since he had made as complete a surrender of dominion as was possible and still keep it a joint account. When as complete a delivery is made as the nature of the subject matter will permit, it has been held that the gift is valid. *Dinslage* v. *Stratman,* 180 N. W. 81; 19 MICH. L. REV. 656.

HIGHWAYS—LIABILITY OF ABUTTING LAND OWNER FOR DEFECTS IN TREES STANDING WITHIN LIMITS OF PUBLIC HIGHWAY.—A tree standing on defendant's land, but within the limits of a public highway, fell across the traveled part of the highway, severely injuring the plaintiff, who was driving past in an automobile. The tree was alive when it fell, but there was a serious defect in it which had existed for several years. *Held,* there was no legal duty on the defendant, the servient fee owner, to safeguard the traveler against dangers from defects in trees standing within the limits of the county road. *Zacharias* v. *Nesbitt* (Minn., 1921), 185 N. W. 295.

In the absence of any legislative enactment upon the subject, an abutting land owner is not liable to travelers for injuries received by them because of a defect in the street in front of his premises, unless such defect was caused by his own act or fault. ELLIOTT, ROADS AND STREETS, 539. The principal case held that decayed limbs of trees, or trees likely to fall, are defects of highways within the above principle. However, in *Weller* v. *McCormick,* 52 N. J. L. 470, it was held that where an abutting land owner planted a tree on the sidewalk in front of his premises, he was bound to use reasonable care to prevent the tree from becoming dangerous to travelers, and one injured by his failure to do so would be entitled to recover compensation. The court in the principal case declined to say whether a different rule should be applied to trees found growing on a rural highway when it was laid out and trees planted by the abutting owner in a village or city street. In *Hewison* v. *City of New Haven,* 37 Conn. 475, it was asserted that at

common law the owners of trees standing on the highway were liable for injuries occurring in consequence of their neglect to trim them, but the statement was not necessary to a decision of the case, which concerned the liability of a city for an alleged public nuisance, and in *Jones* v. *City of New Haven,* 34 Conn. 1, apparently the authority relied on, the liability of the city for injuries to a traveler caused by a tree falling in a public park was based on the charter and by-laws of the city rather than on the fact that the city was owner and in possession of the tree. On the other hand, municipal corporations have often been held liable for injuries caused by falling trees because of their duty to maintain the highways, a reasonable degree of care being the test for liability. *Lundy* v. *Sedalia,* 162 Mo. App. 218; *Chase* v. *City of Lowell,* 151 Mass. 422; *McGarey* v. *City of New York,* 85 N. Y. Supp. 861; *Jones* v. *Greensboro,* 124 N. C. 310. See *Miller* v. *City of Detroit,* 156 Mich. 630, *contra.* In the principal case, the court, following the decision in *Noonan* v. *City of Stillwater,* 33 Minn. 198, held that the fact that counties and statutory towns were not liable for damages occasioned by defects in the public highways, even though charged with the duty of keeping them in repair, was no valid reason for placing the liability for injuries caused by such defects on the abutting land owner, and the decision would seem to be satisfactory, even though in that state the risk of falling trees on the rural highways is thereby assumed by the traveler.

HUSBAND AND WIFE—HUSBAND LIABLE FOR WIFE'S CRIME IN HOME.—W owned the house in which she lived with her husband. She manufactured and sold whisky in the home in violation of Act No. 53 of the Public Acts of 1919. W and her husband were jointly charged with the offense. Evidence tended to show that the husband had disapproved of W's activities. *Held,* both were guilty of violating the statute. *People* v. *Sybisloo* (Oct., 1921), 216 Mich. 1.

When a wife commits a crime in the presence of her husband coercion is generally presumed, but this is rebuttable. *Commonwealth* v. *Hopkins,* 133 Mass. 381; *U. S.* v. *Terry,* 42 Fed. 317. Although otherwise in the case of criminal acts *malum in se,* if a statutory crime is merely *malum prohibitum* criminal intent may not be necessary. *Commonwealth* v. *Boynton,* 2 Allen 160 (defendant honestly believed the liquor sold was not intoxicating); *King* v. *The State,* 66 Miss. 502 (same, "He was bound at his peril to ascertain and know the nature of the article [liquor] which he sold"); 20 MICH. L. REV. 109. *Contra: Farrell* v. *The State,* 32 Ohio St. 456 ("The accused's intention at the time of the sale [of liquor] was involved in the issue.") The decisions based upon facts substantially like those of the principal case apply one of three rules regarding a husband's liability for his wife's criminal acts in the absence of coercion. 1. If the acts of the wife are without the consent and against the will of the husband, mere knowledge of the acts will not impose liability upon him. *Commonwealth* v. *Hill,* 145 Mass. 305 (W owned the house in which she and H lived, and she sold liquor and conducted the business of gambling and prostitution therein); *Commonwealth* v. *Pratt,* 126 Mass. 462 (W conducted a hotel and sold liquor in a portion